

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WILLIAM J. MOORE,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:08cv360
vs.	:	
	:	Chief Judge Susan J. Dlott
WARDEN, LEBANON CORRECTIONAL INSTITUTION,	:	
	:	
Respondent(s).	:	

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Timothy S. Hogan filed on September 10, 2009 (Doc. 10), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired September 30, 2009, hereby ADOPTS said Report and Recommendation.

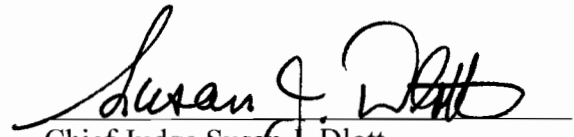
Accordingly, petitioner's petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1) is **DENIED** with prejudice.

A certificate of appealability will not issue in this case, because petitioner has not made a substantial showing that he has stated a "viable claim of the denial of a constitutional right" or that the issues presented herein are "adequate to deserve encouragement to proceed further." *See Slack v. McDaniel*, 529 U.S. 473, 475 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)); *see also* 29 U.S.C. § 2253 (c); Fed. R. App. P. 22(b); *cf Smith v. Welch, supra*. 2009 WL 2167863, at*4.

With respect to any application by petitioner to proceed on appeal *in forma pauperis* at

the close of this case, the Court will certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting the Report and Recommendation will not be taken in “good faith,” and therefore, **DENIES** petitioner leave to appeal *in forma pauperis* upon showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3D 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.



Chief Judge Susan J. Dlott
United States District Court